



JUDICIAL SYSTEM MONITORING PROGRAMME
PROGRAMA DE MONITORIZAÇÃO DO SISTEMA JUDICIAL

Case Summary

08 August 2008

Trials at the Oecusse District Court

The trials of 9 cases of light maltreatment at the Oecusse District Court were scheduled for 16 – 18 and 21 July 2008. However, four cases could not be heard because of the non-attendance of defendants, victims and witnesses due to problems with transport and the long distance required to travel to court. These four cases will be heard on 5 – 7 August 2008.

The Public Prosecution Service, represented by Domingos Barreto, applied Article 351.1 of the Indonesian Penal Code on light maltreatment before the presiding judge Helder Antonio do Carmo. The defendants were represented by private lawyers from the Legal Aid Organization (LBH) *Fundasaun Fatu Sinai Oecusse* (FFSO).

Some cases were decided by the Court, however only suspended sentences were issued and in addition one defendant was fully acquitted. The cases that were tried and decided are summarized below.

Maltreatment, Case No. 06/CO/TDO2008, hearing conducted and decision announced on 16 July 2008

This hearing was conducted to hear testimony from the victim and witness. The victim and witness previously failed to respond to a court summons and the court ordered the PNTL to arrest them and put them in detention for several hours. The court decided to continue with this hearing without the presence of the defendant pursuant to Article 275.2 of the Timor Leste Criminal Procedure Code because the court did not know the whereabouts of the defendant.

The victim and witness testified that the victim was struck until his face started bleeding because the victim did not provide his brother in law (the defendant) with a bride price to the value of three cows. After hearing testimony, and despite the fact the defendant was only represented by his private lawyer, Edmundo Efi, the Court found the defendant guilty of light maltreatment and sentenced him to six months jail, suspended for two years.

Maltreatment, Case No. 24/c/2008, hearing conducted on 17 July 2008 and decision issued on 18 July 2008

The public prosecutor charged two defendants (brothers) for committing maltreatment against the victim. The victim was hit by the two defendants because he was driving a car at high speed and almost collided with the two defendants. The two defendants testified that they punched the victim because he had almost collided with them on the day before the incident. The victim denied that he almost collided with the two defendants, and stated that he was stopped by the two defendants who were standing in the middle of the road. The victim was dragged out of his car, struck on the neck and face, and kicked in the hip causing him to suffer injuries. A witness testified that he saw the two defendants punching the victim. The court decided to sentence the two defendants to eight months imprisonment suspended for two years and to pay court costs. The two defendants were represented by private lawyer Mateus Nesi.

Maltreatment, Case No. 28/co/2008, hearing conducted on 17 July 2008 and decision issued on 21 July 2008

The prosecution charged the three defendants (JM, AM, JG) for committing maltreatment and damage pursuant to Articles 351.1, 406 and 55.1 of the Indonesian Penal Code. The three defendants testified that they hit the victim because he was suspected of being a practitioner of black magic. However they denied damaging the victim's home. The wife of the victim, appearing as a witness, said that her husband was maltreated because he was suspected of practicing black magic and she only saw the defendant JM kick the victim on his back. Another witness did not see the three defendants maltreat the victim, but knew that the victim was suspected of practicing black magic and therefore considered him responsible for the death of a man who was an uncle to the three defendants.

In his decision the presiding judge sentenced the defendants to one year imprisonment suspended for three years pursuant to Articles 351.1 and 55.1 of the Indonesian Penal Code. The Court decided that there was insufficient evidence to prove that the three defendants damaged the home of the victim.

Private lawyer Calisto Tout represented the three defendants.

Maltreatment, Case No. 26/CO/TDO/2008, hearing conducted and decision issued on 17 July 2008

During the hearing the defendant, who was a part-time primary school teacher, admitted that he had maltreated the victim because he was unhappy with the victim for tearing up an examination timetable that had been displayed on the wall by the

defendant. The victim testified that he did not tear up the timetable but only wrote on it by circling Saturday. The victim also testified that he suffered bleeding after being hit and was unable to conduct normal activities for one week. The judge found the defendant guilty of maltreatment and sentenced him to six months imprisonment suspended for two years and ordered him to pay court costs totaling \$ 5,00.

Private lawyer Raimundo Efi represented the defendant.

Maltreatment, Case No. 30/CO/TDO/2008, hearing conducted on 18 July 2008 and decision issued on 21 July 2008

The public prosecutor stated in his indictment that on 9 October 2007 the victim (village head) was taking construction materials from Oecusse city towards Malelat. When he arrived in Malelat the victim called the defendant MU, who was the village treasurer, to come and pay for the car that was hired by the victim. Because the victim was angry at the victim's failure to carry out the order, the victim insulted the defendant and slapped him twice and choked the victim, the defendant then responded by punching the victim three times in the face causing him to suffer injuries. The defendant admitted that he maltreated the victim. Private lawyer Mateus Nesi represented the defendant and suggested that the article charged against his client should be amended because he had acted in self defence. The judge then decided to fully acquit the defendant because he had acted in self defence pursuant to Article 49.1 of the Indonesian Penal Code.

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